WORKERS' COMPENSATION BOARD OF NOVA SCOTIA

Discussion Paper:
Prevention Incentives, "Straw Model"

Board of Directors
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1. Introduction

The WCB of Nova Scotia is developing an incentive program to motivate employers to implement effective health and safety systems and processes in their workplaces.

Based on feedback from key stakeholders, the draft or "straw" model for an incentive program includes:

- Changes to the current WCB experience rating program to:
    - better reflect the costs of a serious workplace injury or fatality,
    - make it more responsive to a shift in claims costs,
    - create a surcharge for employers with consistently high workers' compensation claims costs – significantly higher than the average of their industry.

- An industry based reduction or rebate of WCB premiums to reward an employer for passing an occupational health and safety audit, endorsed by the association representing their industry, conducted by an external agency to a standard defined by WCB with award of a Certificate, typically referred to as a "Certificate of Recognition". The incentive will be available at the employer level in industries that prescribe to this approach.

- Development of a Priority Employers program to assist targeted poor performing employers to improve or develop effective occupational health and safety systems and processes.

This paper will provide an introduction to the principles developed as a foundation for these initiatives, and outline the components of the major initiatives contained in the program. These initiatives were developed following extensive consultation with stakeholder groups, and continue to be tested with stakeholders. To date there has been a very positive response to the model.

1.1 Purpose

In 2003 the Workplace Safety and Insurance System (WSIS) consisting of the Workers' Advisers Program, Workers' Compensation Appeals Tribunal, Workers' Compensation Board and Department of Environment and Labour's Occupational Health and Safety Division developed, in consultation with stakeholders, a System Strategic Plan. One of the goals of the WSIS Plan is: "To improve outcomes for workers and employers".

To achieve that goal, one of the initiatives recommended by stakeholders during the discussion and included in the Strategic Plan is the development of a WCB rate incentives program to encourage employers to take positive action to

improve the climate of health and safety within organizations in Nova Scotia. The program elements addressed in this paper are designed to integrate with other programs and initiatives underway at the WCB and the Occupational Health and Safety Division of the Nova Scotia Department of Environment and Labour. It is vitally important that any initiative work seamlessly with other components of the evolving Prevention Program to create a synergy around the prevention of workplace injury and illness in Nova Scotia.

2. Background

2.1 Consultation to Date

In July, 2004, an options paper was distributed to key stakeholders and posted to the WCB's website. In addition, there has been ongoing discussion with the Prevention Subcommittee of the Occupational Health and Safety Advisory Council.

The paper offered information on rate incentive programs available in provinces across Canada, and asked readers for their feedback on a number of questions, including the objectives and principles for a rate incentives program in Nova Scotia and the linkages between experience rating and an incentives program.

In addition, a number of one-on-one meetings were held with opinion leaders, industry associations and safety associations to identify their interests and priorities, and help determine the most effective means of implementing an incentives program. This feedback has been instrumental in developing the program "straw model" which is presented in this paper.

Stakeholders raised a couple of key points frequently during the consultation:

- Focus on those employers most in need. Target the poor performers and ensure they pay their share of the costs.
- Current experience rating model works – although minor changes are acceptable.

The research and feedback from stakeholders was compiled, considered and utilized to build the "straw" model outlined in this paper. This model has been shared with several key industry associations, to get their initial response to the model. Again, the early response has been positive.

2.2 Other Considerations

In developing the concept of a Prevention Incentives Model a number of key considerations emerged from our consultations and deliberations.

- Need for maximum results – It is critical that any program has a significant impact on the safety of people in Nova Scotia workplaces and that it have a significant financial impact:
  - positively to encourage employers to implement effective systems and processes; and,
  - negatively to focus the attention of those not otherwise inclined to identify management of health and safety in the workplace as a significant business priority.

- Constraints – It is also recognized that any program must exist and function within a number of constraints including:
  - for the Workers' Compensation Board of Nova Scotia there are limited financial and human resources available to develop, implement and manage this program,
  - the capacity for change, at the WCB and with our external partners, including industry and/or safety associations. For example, service providers currently offering the Certificate of Recognition, may not have the ready capacity to step forward and provide the service if an additional driver such as a rate incentive creates an additional significant demand for this service,
  - the capacity of our customers to understand and adapt to new programs and initiatives. For many, focusing on the development or implementation of an occupational health and safety program is a new consideration and may mean significant change in business processes. Understanding initiatives, surcharges, consulting services, changes to Experience Rating, etc. will pose a challenge to even those employers with a history of proactive safety programs.

- Buy In – While consensus can be difficult to achieve, to ensure the program is effective, "buy-in" from our leaders, stakeholders, clients and staff is critical. Commitment to significant cultural change is part of the prevention program developed as part of the System Strategic Plan. It is the synergy between the various programs implemented by the WCB, the OHS Division and our stakeholders that will drive this change.

- OHS Involvement – As a partner in the Workplace Safety and Insurance System, the Occupational Health and Safety Division (OH&S) of the Department of Environment and Labour is critical to the success of the overall objective of cultural change. The OH&S focus on enforcement of health and safety legislation must be linked to prevention initiatives, such as the

incentives program undertaken by WCB. The two organizations will work together to ensure programs complement each other, building on the strengths of the programs offered by each partner.

- Policy or Legislative Impact – As the program is developed, the requirement for changes to existing policies or development of new policies will be considered. Consultation on new or changed WCB policies will be in keeping with the WCB's draft consultation policy.

- Funding – The funding requirements of initiatives must also be clearly defined, both in terms of the costs associated with any reduction or rebate of premiums and a funding strategy to make sufficient funds available.

2.3 Where Should we Focus our Efforts?

Based on the feedback received from stakeholders, it is clear this program should focus on the area of greatest need - providing motivators and "levers" for change, and applying them where we can achieve the most success both in human terms in the reduction of workplace injury and illness, and in system terms where we impact costs associated with injury and illness claims.

To identify the areas of greatest need – or opportunity for change, the WCB's statistical data was analyzed. The definitions of large, medium, and small employer as outlined in the WCB's experience rating program were utilized to determine where high injury rates and costs are concentrated. Data analysis used the three- year experience rating view of data and considered employers with three complete years in the model.

Under the current Experience Rating Program employers are defined as follows;

- large employers are defined as those with annual premiums greater than $18,400,
- medium employers are defined as those with annual premiums between $5,000 and $18,400 annually,
- small employers are defined as those with annual premiums less than $5,000.

Using these rules we were able to identify the following costs associated with each employer group:

- large employers - responsible for 78% of the costs (1215 employers),
- medium employers - responsible for 13% of the costs (2688 employers),
- small employers - responsible for 9% of the costs (7766 employers).

In an effort to better understand where costs are concentrated, we conducted a further analysis to identify poor performing companies as distinct from those whose number of incidents may be a reflection of a large payroll. To identify this group we selected only those companies whose experience rating was 50% worse than their industry average. This created a list of "poor performing employers" with the costs associated with those employers. Based on this analysis we can identify that 460 large, poor performing companies account for $42m in claims costs. Of this 460, 50 employers account for 22% of the costs, with the next 100 accounting for an additional 12% and the remaining 310 accounting for 13% of the costs.

Clearly this data indicates that a significant portion of the system costs is concentrated in a few large, poor performing companies. With this data we can see that effecting change with a few large, poor performing companies can have a dramatic effect not only with those employers, but also to the overall system. The key is to focus our early attention on those few poor performing companies and assist them in implementing systems and processes that will effectively prevent injury and illness, together with return to work programs to reduce duration of claims.

Working with our actuary, we will identify the mechanism to clearly target those poor performing companies who are making the largest contribution to the cost of the system. All costs will be considered in determining the companies driving the costs of the system. We will focus our Priority Employers program on these companies, and use the linkages to programs such as the "Surcharge" (see Modifications to Experience Rating section of this paper) to provide motivation for change.

The analysis also indicated that 10% of the small employers and 20 % of the medium employers are poor performers. Hence, the incentive program has to provide an appropriate balance to motivate these employers without the significant deployment of direct support services beyond education and communications.

2.4 Rate Incentives Strategy - Guiding Principles

The following principles have been adopted to guide the development of our rate incentives initiative. These principles will be reflected in all our incentive program elements.

- Focus on employers driving costs
- Target "consistent" poor performance
- Motivate culture change

- Engage industry associations and service providers

3. Straw Model Overview

Considering the feedback provided by stakeholders on the options for changing the WCB's Experience Rating Program and developing a program to incent and encourage employers to improve and implement occupational health and safety programs in their workplaces, the following key components are proposed as a "Straw Model":

- Modification of Experience Rating Program
- Introduction of an industry based incentive for achievement of a Certificate of Recognition (COR)
- Offering a Priority Employers program to those employers in greatest need of change

3.1 Modification of Experience Rating

"Experience rating" is an incentive program currently available to employers in Nova Scotia. It was introduced in 1996 as part of a new classification and rate setting model. Experience rating shifts a relative amount of the financial responsibility to those employers with worse than average experience, and rewards those employers with better than average experience. The program makes prospective adjustments (adjustment to the future rate) for past years' experience. To determine an employer's experience rating, an individual employer's WCB claims cost experience is compared to the overall experience of their rate group. Experience rating promotes workplace health and safety by offering financial incentives to those employers whose claims experience is lower than their industry's experience.

The maximum merit or demerit a company is eligible to receive is based on size, as measured by assessment premiums. A large company participating fully in the experience rating process may receive up to a 30% merit or 60% demerit. Smaller employers may receive up to a 10% merit or 20% demerit. This amount is added to, or deducted from, their industry rate – to calculate the rate that particular employer will pay.

Following are a number of factors in the current Experience Rating Program:

- the ratio of new accident costs to payroll over a three year period is the measure of risk used to apply experience rating to an individual employer's rate,
- costs of new claims for the previous three complete years are included,

- costs of an injury are "capped" at the maximum insurable earnings for the year of the accident,
- costs related to fatal claims are "capped' at a standard amount equal to the maximum insurable earnings for the year of the accident,
- occupational disease claim costs are currently excluded. (this will be reviewed in the rate setting model),
- In theory experience rating is a revenue neutral program at the industry level,
- self-insured employers (Federal and Provincial Government), and special protection accounts (proprietors and partners) are not included in this program.

Experience rating impacts almost all companies covered by the WCB, and the existing system can provide a foundation for a further development of the program to make it both more responsive to employers taking positive steps to manage health and safety, as well as responding to the demand that those persistently reflecting poor management of health and safety pay a larger portion of the system costs. In addition, stakeholders told us we need to help industry understand how experience rating works and how they can impact their rates through effective safety systems and processes. While stakeholders support change to Experience Rating, they were clear that the essence of the existing system should be retained.

3.1.1 Objectives for Experience Rating Modifications

Based on consultation and research, the following objectives were developed for modifying experience rating. Changes should:

- be supportive of the objectives of the WCB's strategic objectives relating to Prevention,
- reflect the seriousness of injury,
- increase model responsiveness,
- make consistent poor performers change their practice or pay - target (penalize) poor performing employers and industries.

3.1.2 Experience Rating Changes

To accomplish the stated objectives for changes to the Experience Rating program the following three initiatives are included in the model:

- increase threshold for fatalities and injuries,
- increase responsiveness of the system to a change in claims cost experience,
- introduce a surcharge for recurring poor performers.

3.1.2.1 Increase Threshold for Fatalities and Injuries

Currently the costs of an injury are "capped" at the maximum insurable earnings for the year of the injury. This change proposes doubling the cost ceiling for the purposes of Experience Rating and Rate Setting for any claim.

Currently the costs of fatal claims are "capped" at the maximum insurable earnings for the year of the fatality. This change proposes doubling the cost ceiling for the purposes of Experience Rating and Rate Setting for any fatality.

Existing Rules:

- firm level experience rating – 1 x assessable maximum
- industry level rate setting – 2 x assessable maximum

New Rules:

- firm level experience rating – 2 x assessable maximum
- industry level rate setting – 4 x assessable maximum

This change is included for two reasons. First, this change will allow for a positive communication message associated with safety. For example, "The WCB is doubling the impact of serious injury in its rate setting model." In addition, it will ensure that those employers with significant costs pay a greater share of the premiums.

3.1.2.2 Re-allocation of 3-Year Costs

The current model of Experience Rating has received very positive reviews in the one-on-one consultations conducted with stakeholders. We repeatedly heard that they appreciated the current system and the fact that it rewards performance while providing an opportunity for employers to take action to reduce their rates through effective prevention of injury and illness. They also appreciated the fact that poor performance is reflected in increased rates.

Some concern was expressed relative to the time lag between a workplace injury and the most significant impact on rates. In calculating experience rating ratios, claims that are older have been in the system longer and are more likely to have significant costs accumulated as opposed to recent claims. In essence, the older claims have a greater impact on experience rates than recent trends. Stakeholders indicated they would like to see rates that are more reflective of current trends.

Our consulting actuary has been engaged to analyze an option that involves a redistribution of the relative weightings of costs by year. In effect these changes will make the system more responsive so that employers getting worse will see

increases in their rate sooner and employers that are improving will see reductions sooner. Closer linking of the action and reward should have a positive impact on employer results.

There are no additional costs associated with this change, as it is only a redistribution of the cost of claims. Transition rules and policy may be necessary to protect employers from large swings in rates relating to the implementation of these changes.

3.1.2.3 Rate Surcharge for Recurring Poor Performers

A "surcharge" will be introduced and applied to the poor performing companies who, after adequate notification continue to have high rates of injury. This surcharge will not be a one-time cost, but rather a progressive penalty that increases with the duration a company continues to be a poor performer. Adequate notification in advance will be provided to these companies to allow them an opportunity to embrace change in their workplace prior to any punitive premiums. It is envisioned that a mechanism be included for a company to extend the time limit for improved results by achieving an approved 3rd Party audit. The objective here is to motivate employers to introduce programs to improve health and safety in the workplace. To effect this change we will:

- establish selection criteria through policy
  - i.e. consistent poor claims performance relative to their industry (high potential accounts).

- establish rate adjustment rules through policy
  - i.e. x% surcharge if cost experience does not improve within x years. Increase a second time in additional x years.

- develop options to avoid surcharge
  - reduction in cost/$ ratio within x years.
  - successful achievement of Certificate of Recognition or other WCB approved certifications (temporary relief for x additional years).
  - Priority Employer program available to priority employers.
  - note: any employer qualifying for the surcharge will receive a " potential rate surcharge" message in advance.

The surcharge is a vital link to motivate employers to consider audit models and our in-house consulting services, which might otherwise go unnoticed by poor performing employers. The surcharge provides a mechanism for an escalating premium where an employer fails to take action.

In practice, a "business case" model will be developed for each firm affected by the surcharge to highlight the impact of not taking action to reduce injury and curb costs. To assist employers that are unclear as to how to begin to address

their problem, a number of program elements will be put in place to provide guidance. In addition they will have the option to defer the surcharge cost for a set period contingent on starting an approved program or effecting demonstrable change. Elements could include:

- resource material for improvement – roadmap,
- options to extend timing prior to surcharge,
- certificate of recognition service provider list,
- return to work programs material and support,
- best practice info,
- mentoring,
- DEL / OH&S targeting as additional incentive and guidance.

3.2 The Certificate of Recognition (COR) Program

Currently a Certificate of Recognition program exists in Nova Scotia with participation across a number of industries with the major focus being the construction industry. The COR is essentially an audit of OHS systems based on ISO9001 protocol. We believe the COR program has a great deal of potential as an effective measure of an employer's OH&S systems and processes, and that effective implementation of these systems and processes by employers is predictive of effective management of health and safety which translates into effective prevention of injury and illness. The model contemplates an industry based framework that will provide rate reductions or rebates based on successful implementation of the COR standard.

The Department of Environment and Labour had developed the current audit protocol and had made recognition and co-signature by DEL conditional on meeting the standard they defined. Transfer of responsibility for the COR program moved from DEL to the WCB in 2003 as a component of the transfer of Prevention. WCB Prevention Services has continued to administer the program as it was transferred, while conducting an analysis of the overall program, including the requirements of a draft revision to the protocol as transferred from DEL. We have initiated consultation with stakeholders on the COR. As a part of the consultation we have been reviewing requirements of the protocol with the active organizations currently recognized as approved audit providers by the WCB.

Our review and the consultations have highlighted a number of areas of potential improvement in the audit standard to ensure audit instruments used by the audit employers are addressing all critical areas of OH&S systems and processes. In addition, a number of areas addressing the administration and management of the audit process and audit providers have also been identified as potential areas for improvement. Based on our analysis of the program, research indicating a high level of success with a similar program in Alberta (now being adopted by British Columbia) and consultation with stakeholders and the approved audit providers, we believe the COR offers potential as the basis of an industry specific

incentive program. Offering incentives to companies for achieving a pass on the COR audit links their development of OH&S systems and processes to an external assessment of their level of development and implementation of these processes and systems. The role of the WCB becomes that of an overseer of the process, with incentives available to employers within industry sectors that implement the COR framework within their industry.

3.2.1 COR Objectives

The following objectives have been developed for a Certificate of Recognition program. A COR program should:

- motivate employers to introduce safety management systems,
- result in workplace safety and injury prevention,
- establish a standard in measuring OHS system compliance,
- create a common understanding of minimum standards relating to the OHS Act and Regulations,
- provide a mechanism for procurement leverage,
- engage safety associations by industry,
- define a best practice starting point for employers – a roadmap,
- place operational responsibility with selected employers and industry / safety associations,
- be self-funding on an industry basis.

3.2.2 Modifications of the COR Program

WCB will establish a framework for industry implementation. It is expected that:

- Collective liability will be maintained at the industry level
- Standards and audit tools will be utilized
- Service capacity will be assured prior to implementation
- Employer participation will be voluntary
- Quality Assurance must be assured
- Prior notice would be provided to industry sectors and a process defined to determine when an industry is accepted

3.2.3 Industry Based Incentives – COR

When an agreement has been reached with an industry association based upon the framework presented, employers that have achieved a Certificate of Recognition will be eligible for a rate reduction or rebate. The eligibility rules will be determined in policy and will reflect issues such as length of time between audits, third party audits and self-audits, etc. The rate reduction or rebate will also be addressed in policy.

3.2.4 Industry Association Challenges

A number of challenges to adopting the COR as an incentives model continue to exist and are being addressed through consultation with stakeholders and on-going discussions with the approved audit employers. Some of these issues include:

COR – defining our preferred revisions to audit standard,
COR – "mail-in" audits versus third party on-site audits,
COR – ability of WCB to conduct quality assurance audits and post-audits where indicated,
COR – need for a mechanism to encourage industries to adopt the framework,
COR – capacity of third party audit providers,
COR – acceptance of audits regardless of industry sector.

Working with our partners, we are confident we can resolve these issues and develop the COR into an effective platform for promoting, recognizing and rewarding implementation of effective OH&S systems and processes.

3.2.5 Implementation and Timeline

To successfully implement a program of this nature it will be important that we provide adequate time and opportunity for all impacted employers to achieve the standard and qualify for the rate rebate or reduction. In addition, before putting a program in place the WCB would need assurance that industry associations will participate and there is adequate capacity in the sector to service all employers wanting to participate.

It is anticipated that the construction industry may be the first to agree to participate in the program since its service delivery model is the most mature and adequate capacity to deliver the audit currently exists. Other industries will likely follow with appropriate encouragement, support, and time.

It is envisioned that the program will be announced in February 2005. As an example, the first phase or participating industries could be notified in 2005. All employers who have a COR in place by June 2006 would receive the rate incentive for 2007. This timeline would provide 15 months for the industries to embrace the program and implement the necessary processes and resources to take advantage of the proposed incentives from WCB. This annual timetable would be in effect and operationalized by the WCB in partnership with the participating industry.

3.3 Priority Employers Program

In addition to the changes to experience rating and adoption of an industry based COR incentive program, another critical component of the prevention program is development of a Priority Employers program to provide consulting services "at no charge" to the worst performing companies in an effort to assist them in implementing effective systems and processes to reduce injury and illness.

As seen in the market segmentation, a large volume of costs are concentrated in a very small number of large employers. With the assistance of the WCB's actuary, criteria will be developed to identify the worst performing companies to be a "focus" of the Priority Employers program. Research shows that in jurisdictions where programs of this nature have been implemented, costs associated with employers willing to participate in developing safety systems and processes have seen significant reductions in injury, illness and lost time. Those who choose not to take our advice and assistance will receive on ongoing surcharge.

3.3.1 Priority Employers Program Discussion Paper

A current separate discussion paper addresses the development of a Priority Employers Program at the WCB and explores potential models and issues associated with the development of such a program. Typically programs of this nature focus on a very limited number of companies who have been identified as contributing to a significant portion of the claims costs and have a high potential for improvement. By focusing on the limited number of high cost employers and assisting them in effecting positive change, we should see an overall positive impact within the system.

3.3.2 Priority Employers Program Implementation

Following consultation with stakeholders, a draft consulting model will be defined. This exercise will evaluate options ranging from OH&S audit to "hands-on" consultation, and will explore the success of other jurisdictions who have adopted a range of internal / external models. This will serve as a guide to development of the program around the consulting intervention model.

3.3.3 Incentives and the Priority Employers Program

As an incentive, under the new program, employers targeted and voluntarily participating in the Priority Employers Program may be eligible for an extension in avoiding the rate surcharge in the experience rating options that were presented earlier. The details regarding the length of time of the deferral of the surcharge and other issues will be addressed in policy.

4. Funding Model Considerations

The WCB's Rate Setting and Experience Rating Model is based on the concept of collective liability. For example, in theory, an industry experiencing 3% of the claim costs will fund 3% of the revenues necessary to fund the system. It is clear that any solution must respect these insurance based underpinnings.

The options presented within this discussion paper have been presented to the WCB's consulting actuary and will be further analyzed for sensitivity analysis and funding impacts prior to implementation.

5. Next Steps

The following are some of the anticipated next steps as we move to continue the parallel development of this suite of prevention initiatives:

- input on the Straw Model from stakeholders,
- actuarial input on Experience Rating changes,
- define the processes and administrative systems necessary for implementing the various program elements including what employers / industries are required to do,
- prepare draft policies for approval by WCB Board of Directors and consultation,
- finalize Priority Employers Program
- build program and launch project for system and procedural changes,
- revise COR protocol and ensure effective governance,
- negotiate adoption of COR Incentives Framework with industry.

As each program develops we will continue to seek input from stakeholders and adapt the programs to best meet the needs of stakeholders, while ensuring the reduction of injury and illness and associated costs remains the overall objective.

6. Summary

The WCB is committed to changing the Workplace Health and Safety culture in Nova Scotia. All agree that too many Nova Scotians are injured or killed on the job each year.

By implementing an effective rate incentive program, we hope to incent employers to take a leadership role in the adoption of best practices in health and safety. It will take leadership from all stakeholders in the system to successfully achieve our goals.

With changes resulting from the Dorsey report recommendations and the Supreme Court's decision on chronic pain, it is imperative that we have an impact on the costs of the system in the short term. The elements of this program are designed make the greatest impact for the time and resources invested and to reflect the WCB's commitment to improve outcomes for employers and their employees.